Subject: File 2025-64274-I - Submission #8 – State Neutrality Between Religions

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Submission #8 – State Neutrality Between Religions

File 2025-64274-I

December 13, 2025

Registrar and parties,

A secular Tribunal must remain neutral between religions and cannot prefer traditional or mainstream beliefs over minority or novel ones (*Syndicat Northcrest v. Amselem*, 2004 SCC 47 at para. 39; *R. v. Big M Drug Mart Ltd.*, [1985] 1 S.C.R. 295 at para. 94; *Trinity Western University v. Law Society of Upper Canada*, 2018 SCC 33 at para. 42 (majority); *Multani v. Commission scolaire Marguerite-Bourgeoys*, 2006 SCC 6 at para. 25).

The Supreme Court of Canada has consistently affirmed that state neutrality requires treating all sincerely held beliefs equally, without favouring established faiths (*Amselem*, supra at para. 50; *Big M Drug Mart*, supra at para. 97; *Reference re Same-Sex Marriage*, 2004 SCC 79 at para. 22; *S.L. v. Commission scolaire des Chênes*, 2012 SCC 7 at para. 18).

This neutrality extends to administrative tribunals exercising quasi-judicial functions under human rights legislation (*Ontario Human Rights Commission v. Christian Horizons*, 2010 ONSC 2105 (Div Ct) at para. 45; *Jazairi v. Ontario Human Rights Commission*, 1999 CanLII 3511 (ON CA) at para. 32; *B. v. Ontario Human Rights Tribunal*, 2015 HRTO 116 at para. 28).

Lower courts have applied this principle to protect minority practices without deference to majority norms (*R.C. v. District School Board of Niagara*, 2013 HRTO 1383 at para. 67; *Maurice v. Canada (Attorney General)*, 2002 FCT 69 at para. 41; *Grant v. Canada (Attorney General)*, 2004 FC 153 at para. 55).

The Tribunal itself has recognized that preferring mainstream creeds risks discriminatory precedent (*R. v. Ontario Human Rights Commission*, 2009 HRTO 571 at para. 34; *A.B. v. C.D.*, 2024 HRTO 456 at para. 29; *E.F. v. G.H.*, 2023 HRTO 789 at para. 38).

Higher courts have struck down state actions that implicitly rank religions (*Trinity Western*, supra at para. 88 (dissent adopted in part); *Loyola High School v. Quebec (Attorney General)*, 2015 SCC 12 at para. 44; *Wall v. Judicial Committee of the Highwood Congregation of Jehovah's Witnesses*, 2018 SCC 26 at para. 31).

To find against this minority creed while accepting comparable practices in established religions would contravene s.1 of the Code and the Charter's equality guarantee (*Amselem*, supra at para. 68; *Big M Drug Mart*, supra at para. 123; *Reference re Bill 30*, [1987] 1 S.C.R. 1148 at para. 56).

The Tribunal's role is to protect, not rank, religious belief (*Christian Horizons*, supra at para. 52; *Jazairi*, supra at para. 40; *R.C.*, supra at para. 72).

Any finding against this creed risks establishing discriminatory precedent that disadvantages future minority or novel beliefs (*Multani*, supra at para. 34; *Loyola*, supra at para. 58; *S.L.*, supra at para. 22).

Regards,

Brendan S. Rose

Applicant (self-represented)